

12-16-94

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EXHIBIT B

SUPERIOR COURT OF WASHINGTON
FOR KING COUNTY

LONGVIEW FIBRE COMPANY,

Plaintiff,

v.

OMEGA ENVIRONMENTAL INC., d/b/a
O'SULLIVAN CONSTRUCTION, INC., a
Delaware corporation, and O'SULLIVAN
OMEGA, INC., formerly known as
O'SULLIVAN CONSTRUCTION, INC., a
Washington corporation, and CH2M
HILL, INC., a Florida corporation,

Defendants.

NO. 93-2-28222-2

STIPULATION AND ORDER OF
DISMISSAL

(Clerk's Action Required)

IT IS HEREBY STIPULATED between the parties that this
matter shall be dismissed with prejudice and without costs to any
party.

Dated this 16th day of ^{December}~~October~~, 1994.

BOGLE & GATES

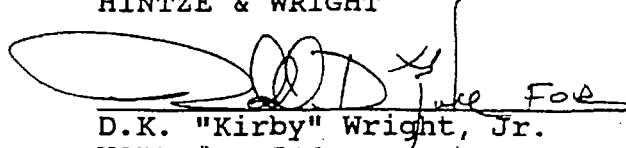

Elaine L. Spencer, WSBA #6963
Attorneys for Plaintiff

STIPULATION AND ORDER OF DISMISSAL - 1

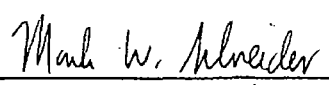
BOGLE & GATES

Two Union Square
601 Union Street
Seattle, WA 98101

HINTZE & WRIGHT


D.K. "Kirby" Wright, Jr.
WSBA # 12506
Attorneys for Defendant
CH2M Hill, Inc.

PERKINS COIE


Mark W. Schneider, WSBA #14105
Attorneys for Defendants Omega
Environmental, Inc. and O'Sullivan
Omega, Inc.

ORDER


Based on the stipulation of the parties, this matter is
hereby dismissed with prejudice and without costs to any party.

DONE IN OPEN COURT this 16th day of ^{December}~~April~~, 1994.

JAMES R. LINDHARN

S/
JUDGE/COMMISSIONER

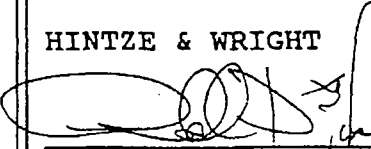
PRESENTED BY:  Neil Chandler, Legal Assistant
BOGLE & GATES


Elaine L. Spencer, WSBA #6963
Attorneys for Plaintiff Longview
Fibre Company

STIPULATION AND ORDER OF DISMISSAL - 2

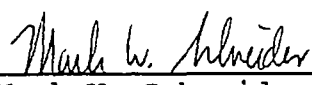
BOGLE & GATES
Two Union Square
601 Union Street
Seattle, WA 98101
(206) 682-5151

1 AGREED; APPROVED AS TO FORM; NOTICE
2 OF PRESENTMENT WAIVED:

3 HINTZE & WRIGHT
4 

5 D.K. "Kirby" Wright, Jr.
6 WSBA # 12506
7 Attorneys for Defendant
8 CH2M Hill, Inc.

9 PERKINS COIE

10 
11 Mark W. Schneider, WSBA #14105
12 Attorneys for Defendants Omega
13 Environmental, Inc. and O'Sullivan
14 Omega, Inc.
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STIPULATION AND ORDER OF DISMISSAL - 3

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601 Union Street
Seattle, WA 98101
(206) 682-5151

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ATTORNEYS

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ATTORNEYS

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SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR KING COUNTY

LONGVIEW FIBRE COMPANY,

Plaintiff,

v.

OMEGA ENVIRONMENTAL INC., d/b/a
O'SULLIVAN CONSTRUCTION, INC., a
Delaware corporation,

Defendant.

NO. 93-2-28222-2

OMEGA ENVIRONMENTAL, INC.'S
FIRST INTERROGATORIES AND
FIRST REQUESTS FOR PRODUCTION
OF DOCUMENTS TO LONGVIEW
FIBRE COMPANY**DOCKETED**

TO: Plaintiff Longview Fibre Company;

AND TO: Elaine L. Spencer, Bogle & Gates, Attorneys for
Plaintiff Longview Fibre Company.

Pursuant to CR 33 and CR 34, please answer the following
interrogatories in full and produce the following documents
within thirty (30) days of service of this request upon you.

DEFINITIONS

1. The term "you" or "your" shall mean Longview Fibre
Company and any or all of its predecessor entities, past and
present subsidiaries, affiliates, divisions, administrations
or sub-departments, officers, managers, employees, directors,
representatives, agents, attorneys, consultants, and all other

OMEGA ENVIRONMENTAL, INC.'S
FIRST INTERROGATORIES AND FIRST
REQUESTS FOR PRODUCTION OF
DOCUMENTS TO LONGVIEW FIBRE
COMPANY - 1

(19123-0201/SL940180.018)

PERKINS COIE
1201 THIRD AVENUE, 30TH FLOOR
SEATTLE, WASHINGTON

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1 persons acting or purporting to act on behalf of any or all of
2 them.
3

4
5 2. The term "identify" means:

6 (a) when applied to an individual person, to state
7 the full name, all previous names, present or last known home
8 and business addresses and telephone numbers, occupation and
9 employer, and relationship to any party.
10
11

12 (b) when applied to any entity other than an
13 individual person, to state the full name, all previous names,
14 present or last known address(es) and telephone number(s),
15 form of entity (i.e., corporation, partnership), and
16 relationship to any party.
17
18

19 (c) when applied to a document, to state the title,
20 serial or identifying number(s), date, and where the document
21 presently is and where it used to be stored (if different),
22 and identify (as defined above) the author(s), signer(s),
23 recipient(s), addressee(s), and present custodian of the
24 document.
25
26

27 (d) when applied to an oral communication, to
28 identify (as defined above) the speaker(s), and the person(s)
29 addressed and any intended recipients, and state the date,
30 place (both from which sent and to which sent, if different),
31 and medium, and describe completely and in full detail the
32 content.
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OMEGA ENVIRONMENTAL, INC.'S
FIRST INTERROGATORIES AND FIRST
REQUESTS FOR PRODUCTION OF
DOCUMENTS TO LONGVIEW FIBRE
COMPANY - 2

[19123-0201/SL940180.018]

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INTERROGATORIES

INTERROGATORY NO. 1: Identify each person whom you believe has knowledge or information relating to the facts of this case or the allegations of your Complaint for Damages ("Complaint") and state the knowledge or information you believe each such person to have.

ANSWER:

INTERROGATORY NO. 2: Identify all documents that disclose, reflect, or relate to the facts of this case or the allegations of your Complaint.

ANSWER:

INTERROGATORY NO. 3: Identify all persons with knowledge of and all documents that disclose, reflect, or relate to the design, purchase, or installation of the above-ground heating oil storage tank referenced in paragraph 12 of your Complaint (the "Above-Ground Tank").

OMEGA ENVIRONMENTAL, INC.'S
FIRST INTERROGATORIES AND FIRST
REQUESTS FOR PRODUCTION OF
DOCUMENTS TO LONGVIEW FIBRE
COMPANY - 3

[19123-0201/SL940180.018]

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SEATTLE, WASH. 98101

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ANSWER:

INTERROGATORY NO. 4: Identify all persons with knowledge of and all documents that disclose, reflect, or relate to the hook-up of the Above-Ground Tank to the boiler referenced in paragraph 12 of your Complaint (the "Boiler").

ANSWER:

INTERROGATORY NO. 5: Identify all persons with knowledge of and all documents that disclose, reflect, or relate to any inspection or test conducted on the Above-Ground Tank or Boiler, either prior to or after placing the system in use.

ANSWER:

OMEGA ENVIRONMENTAL, INC.'S
FIRST INTERROGATORIES AND FIRST
REQUESTS FOR PRODUCTION OF
DOCUMENTS TO LONGVIEW FIBRE
COMPANY - 4

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SEATTLE, WASHINGTON

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1 INTERROGATORY NO. 6: Identify all persons with knowledge
2 of and all documents that disclose, reflect, or relate to any
3
4 permit applied for or obtained with respect to the Above-
5
6 Ground Tank or Boiler.

8 ANSWER:
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18 INTERROGATORY NO. 7: Identify all contractors, general
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20 contractors, sub-contractors, and other persons or entities
21
22 who participated in, worked on, or supervised the design,
23
24 installation, or hook-up of the Above-Ground Tank or Boiler.
25

26 ANSWER:
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36 INTERROGATORY NO. 8: Identify all individuals or
37
38 entities who conducted inspections or tests of the Above-
39
40 Ground Tank or Boiler; state the dates and nature of each such
41
42 inspection or test and the results of each such inspection or
43
44 test; and identify all documents that disclose, reflect, or
45
46 relate to any of the foregoing or your answer.
47

OMEGA ENVIRONMENTAL, INC.'S
FIRST INTERROGATORIES AND FIRST
REQUESTS FOR PRODUCTION OF
DOCUMENTS TO LONGVIEW FIBRE
COMPANY - 5

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11 **ANSWER:**

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13 **INTERROGATORY NO. 9:** Identify all permits or approvals,
14 whether written or oral, that you or others obtained for the
15 use of the Above-Ground Tank.
16

17 **ANSWER:**
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27 **INTERROGATORY NO. 10:** Identify all persons or entities
28 who have supplied fuel to, worked on, or maintained the Above-
29 Ground Tank.
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32 **ANSWER:**
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43 **INTERROGATORY NO. 11:** With respect to your allegation in
44 paragraph 7 that, "EPA standards, permits and codes call for
45 disconnecting and draining all piping attached to an
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OMEGA ENVIRONMENTAL, INC.'S
FIRST INTERROGATORIES AND FIRST
REQUESTS FOR PRODUCTION OF
DOCUMENTS TO LONGVIEW FIBRE
COMPANY - 6

[19123-0201/SL940180.018]

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1 underground storage tank, and then capping the ends of all
2 pipes formerly attached to the tank but remaining in the
3 ground," please state the following:

- 4
5
6 a. State all facts which support that allegation;
7
8 b. Identify all persons with knowledge of the facts
9 which support that allegation;
10
11 c. Identify all documents which relate to that
12 allegation; and
13
14 d. Identify all EPA standards, permits and codes to
15 which you refer.
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20 **ANSWER:**
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30 **INTERROGATORY NO. 12:** To the extent not answered in the
31 previous interrogatory, identify all "EPA standards, permits
32 and codes" which are encompassed within that term as it is
33 used in the July 21, 1987 purchase order of Longview Fibre
34 Company to O'Sullivan Construction Co., and identify all
35 documents related to those EPA standards, permits and codes.
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42 **ANSWER:**
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OMEGA ENVIRONMENTAL, INC.'S
FIRST INTERROGATORIES AND FIRST
REQUESTS FOR PRODUCTION OF
DOCUMENTS TO LONGVIEW FIBRE
COMPANY - 7

(19123-0201/SL940180.018)

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1201 THIRD AV
SEATTLE, WASH

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1 INTERROGATORY NO. 13: With respect to your allegation in
2 paragraph 8 that O'Sullivan did not cap the pipes that were
3 attached to the Above-Ground Tank and the Boiler, please state
4 the following:
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6

- 7
8 a. State all facts which support that allegation;
9
10 b. Identify all persons with knowledge of the facts
11 which support that allegation; and
12
13 c. Identify all documents which relate to that
14 allegation.
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18 ANSWER:
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28 INTERROGATORY NO. 14: With respect to your allegations
29 in paragraph 9 of the Complaint that "CH2M Hill Northwest,
30 Inc. was acting as an independent manager of the removal for
31 Longview. CH2M Hill's engineer on-site observed that the
32 pipes were not being capped, and specifically directed
33 O'Sullivan to cap the pipes. Nonetheless, even after having
34 been instructed to do so, O'Sullivan did not cap the pipes,"
35 please state the following:
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- 44 a. State all facts which support that allegation;
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OMEGA ENVIRONMENTAL, INC.'S
FIRST INTERROGATORIES AND FIRST
REQUESTS FOR PRODUCTION OF
DOCUMENTS TO LONGVIEW FIBRE
COMPANY - 8

[19123-0201/SL940180.018]

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1201 THIRD AVENUE
SEATTLE, WASHINGTON

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- 1 b. Identify all persons with knowledge of the facts
2 which support that allegation;
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4 c. Identify all documents which relate to that
5 allegation;
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8 **ANSWER:**
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18 **INTERROGATORY NO. 15:** With respect to your allegation in
19 paragraph 23 that "in performing its obligations under its
20 contract with Longview, O'Sullivan had a duty to perform its
21 work in a sound and workmanlike manner and to exercise
22 reasonable care. That included a duty to cap the lines,"
23 please state the following:
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- 30 a. State all facts which support that allegation;
31
32 b. Identify all persons with knowledge of the facts
33 which support that allegation;
34
35 c. Identify all documents which relate to that
36 allegation.
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40 **ANSWER:**
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1 INTERROGATORY NO. 16: To the extent not previously
2 answered, identify all persons with knowledge and all
3 documents that disclose, reflect, or relate to your
4 solicitation of bids for the removal of the three underground
5 storage tanks at issue in this action, your acceptance of the
6 proposal by O'Sullivan, and your issuance of the July 21, 1987
7 purchase order to O'Sullivan.
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14 ANSWER:
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24 INTERROGATORY NO. 17: To the extent not previously
25 answered, identify all persons with knowledge and documents
26 that disclose, reflect or relate to the activities of CH2M
27 Hill with respect to the removal of the underground storage
28 tanks, the oversight or monitoring of O'Sullivan's actions, or
29 other environmental cleanup actions at Longview's Seattle box
30 manufacturing plant at any time in 1987.
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38 ANSWER:
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OMEGA ENVIRONMENTAL, INC.'S
FIRST INTERROGATORIES AND FIRST
REQUESTS FOR PRODUCTION OF
DOCUMENTS TO LONGVIEW FIBRE
COMPANY - 10

[19123-0201/SL940180.018]

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1201 THIRD AVENUE,
SEATTLE, WASHINGTON

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1 INTERROGATORY NO. 18: Have you made a demand for
2 reimbursement from any entity other than Omega, including CH2M
3 Hill or any insurer, for any cost or damages that you seek to
4 recover from Omega? If so, please provide the following
5 additional information:
6
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- 10 a. Identify the persons on whom you have made a demand;
11
12 b. Identify all persons with knowledge of any such
13 demand or any response to any such demand; and
14
15 c. Identify all documents that disclose, reflect, or
16 relate to the demand or to any response to any such
17 demand; and
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19 d. Describe the substance of any responses received to
20 any such demand.
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26 ANSWER:
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37 INTERROGATORY NO. 19: Have you ever removed, or had any
38 other person or entity remove, underground storage tanks at
39 any time from 1975 until the present? If so, please state the
40 following for each such removal:
41
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- 44 a. The approximate dates of removal;
45
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OMEGA ENVIRONMENTAL, INC.'S
FIRST INTERROGATORIES AND FIRST
REQUESTS FOR PRODUCTION OF
DOCUMENTS TO LONGVIEW FIBRE
COMPANY - 11

[19123-0201/SL940180.018]

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1 b. The location or plant where the removal occurred
2
3 (Interrogatory No. 19 is not limited to Longview's Seattle box
4
5 manufacturing plant);

6 c. State whether you or any other person or entity
7
8 capped all pipes or lines that had been attached to any tank
9
10 prior to removal;

11 d. State all reasons why the pipes or lines were or
12
13 were not capped;

14 e. Identify the persons or entities that conducted the
15
16 removal;

17 f. Identify all persons with knowledge of the removal;
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19 and
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21 g. Identify all documents that disclose, reflect, or
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23 relate to the removal.
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25 **ANSWER:**
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39 **INTERROGATORY NO. 20:** Please state the total sum of
40
41 money that plaintiff seeks to recover from Omega in this case.
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43 Explain in detail all facts that form the basis for the sums
44
45 you seek to recover and the calculations, formulas, and
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OMEGA ENVIRONMENTAL, INC.'S
FIRST INTERROGATORIES AND FIRST
REQUESTS FOR PRODUCTION OF
DOCUMENTS TO LONGVIEW FIBRE
COMPANY - 12

[19123-0201/SL940180.018]

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1 theories used in arriving at the amount of claimed damages,
2 including but not limited to:
3

- 4 a. The mathematical computation or formula that was
5 used to calculate such damages and the actual
6 numerical figures and amounts used in such
7 computation. If any of the figures used are based
8 on predictions, projections or assumptions, please
9 identify such figures and the exact nature of the
10 prediction, projection or assumption that underlies
11 each such figure;
12
13 b. The identity of any person who provided you with any
14 information or figures that were used in computing
15 such claims or who participated or assisted in the
16 preparation or computation of such claims or has
17 knowledge of the amount of damages sought to be
18 recovered; and
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20 c. The identity of all documents which relate to the
21 foregoing.
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36 **ANSWER:**
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OMEGA ENVIRONMENTAL, INC.'S
FIRST INTERROGATORIES AND FIRST
REQUESTS FOR PRODUCTION OF
DOCUMENTS TO LONGVIEW FIBRE
COMPANY - 13

[19123-0201/SL940180.018]

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1 INTERROGATORY NO. 21: Please identify each person whom
2 you expect to call as an expert witness in this case. For
3 each person so identified, state the witness' qualifications,
4 the subject matter on which the expert is expected to testify,
5 the substance of the facts to which the expert is expected to
6 testify, the substance of the opinions to which the expert is
7 expected to testify, and the grounds upon which each opinion
8 is based.
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17 ANSWER:
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32 INTERROGATORY NO. 22: Identify all documents used by,
33 prepared by, prepared for or furnished to any person whom you
34 expect to call as an expert in this case, including all tests
35 and calculations done by this expert or reviewed by him or
36 her, whether or not such tests or calculations form the basis
37 of the opinion. Identify all documents plaintiff has supplied
38 to or received from any expert witness. Identify all
39 documents which disclose, reflect, or relate to the foregoing.
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OMEGA ENVIRONMENTAL, INC.'S
FIRST INTERROGATORIES AND FIRST
REQUESTS FOR PRODUCTION OF
DOCUMENTS TO LONGVIEW FIBRE
COMPANY - 14

[19123-0201/SL940180.018]

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1 ANSWER:
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10 REQUESTS FOR PRODUCTION
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12 REQUEST FOR PRODUCTION NO. 1: Produce all documents
13 identified in Interrogatory Nos. 1-22 above.
14
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16 RESPONSE:
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26 DATED this 31st
27 day of January, 1994.
28
29

30 PERKINS COIE
31

32 By Mark W. Schneider
33 Mark W. Schneider, WSBA #14105
34 Attorneys for Defendant
35 Omega Environmental, Inc.
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OMEGA ENVIRONMENTAL, INC.'S
FIRST INTERROGATORIES AND FIRST
REQUESTS FOR PRODUCTION OF
DOCUMENTS TO LONGVIEW FIBRE
COMPANY - 15

[19123-0201/SL940180.018]

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1201 THIRD AVENUE,
SEATTLE, WASHINGTON

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I, _____, declare under penalty of perjury under the laws of the State of Washington that the foregoing answers are true and correct to the best of my knowledge.

CERTIFICATION

The undersigned attorney for plaintiff has read the foregoing Defendant's First Interrogatories and First Requests for Production of Documents to Plaintiff Longview Fibre Company and the responses thereto, and they are in compliance with CR 26(g).

DATED this _____ day of _____, 1994.

BOGLE & GATES

By Elaine L. Spencer, WSBA #6963
Attorneys for Plaintiff
Longview Fibre Company

02503/003

BOOKED
CORRECTION

FEB 2 3 43 PM '94

DOCKETING DEPT.

FOR COMPLETE DOCUMENT,
PLEASE SEE SEPARATE
ACCORDIAN SHEET.

SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR KING COUNTY

LONGVIEW FIBRE COMPANY,

Plaintiff,

v.

OMEGA ENVIRONMENTAL, INC., d/b/a
O'SULLIVAN CONSTRUCTION, INC., a
Delaware corporation,

Defendants.

NO. 93-2-28222-2

LONGVIEW FIBRE COMPANY'S
FIRST INTERROGATORIES AND
FIRST REQUEST FOR PRODUCTION
OF DOCUMENTS FROM OMEGA
ENVIRONMENTAL, INC. AND
ANSWERS THERETO

DOCKETED

Pursuant to CR 33 and CR 34, please answer the following
interrogatories in full and produce the following documents
within thirty days of service of this request upon you.

GENERAL OBJECTION

Omega Environmental, Inc. ("Omega") objects to these
discovery requests to the extent that they purport to require
the disclosure of information or the production of documents
protected by any privilege, including but not limited to, the
attorney-client privilege or the Work Product Doctrine.

INTERROGATORY NO. 1: Did Omega Environmental, Inc.
("Omega") acquire the stock, assets or business of O'Sullivan

1 Construction, Inc. ("O'Sullivan")? If so, provide the
2
3 following information:

- 4
5 a. The date of the transaction.
6
7 b. Describe the terms of the transaction.
8
9 c. Describe who now owns the assets of O'Sullivan.
10
11 d. Describe what happened to the corporate existence of
12
13 O'Sullivan.
14
15 e. Identify all documents which are in any way related
16
17 to Omega's acquisition of O'Sullivan.
18

19 ANSWER: Omega objects to this interrogatory on the
20 ground that it is neither relevant nor reasonably calculated
21 to lead to the discovery of admissible evidence. Subject to
22 and without waiver of this or its general objection, Omega
23 states as follows: On May 1, 1991, Omega entered into an
24 agreement to acquire the stock of O'Sullivan Petroleum, Inc.,
25 which held some of the assets that had previously been held by
26 O'Sullivan Construction, Inc. O'Sullivan Omega, Inc., a
27 wholly owned subsidiary of Omega, owns some of the assets
28 previously owned by O'Sullivan Petroleum, Inc. Graham
29 Construction now owns some of the assets previously owned by
30 O'Sullivan Construction, Inc. Omega has no corporate
31 relationship with Graham Construction. Omega will produce the
32 1993 Annual Report of Omega, which more fully describes these
33 transactions.
34
35
36

37 INTERROGATORY NO. 2: Do you contend that Omega is not
38
39 responsible for contractual obligations or negligence of
40
41 O'Sullivan resulting from actions of O'Sullivan in 1987? If
42
43 so, state the following:

- 44
45 a. The basis of that contention.
46
47

- 1 b. Identify, giving names, addresses, current employer,
2 position and current telephone numbers, all persons
3 with knowledge concerning the basis for that
4 contention.
5
6
7
8
9 c. Identify all documents related to that contention.
10
11 d. Identify the person or persons whom you contend are
12 responsible for contractual obligations or
13 negligence of O'Sullivan resulting from actions of
14 O'Sullivan in 1987.
15
16
17
18

19 ANSWER: Omega objects to this interrogatory on the
20 ground it is overbroad. Subject to and without waiver of this
21 or its general objection, Omega states as follows: Omega
22 contends that it is not liable for the claims asserted by
23 Longview Fibre against Omega in this case because, among other
24 things, it did not agree to assume such alleged liabilities.
25 Omega contends that the entity primarily responsible for the
26 claims is Longview.
27
28
29

30 INTERROGATORY NO. 3: Identify all "EPA Codes and
31 Standards" which are encompassed within that term as it is
32 used in the June 9, 1987 proposal submitted by defendant to
33 Longview Fibre Company ("Longview"), and identify all
34 documents related to those codes and standards.
35
36
37
38
39

40 ANSWER: Omega is investigating the answer to this
41 interrogatory and will provide a supplemental answer.
42
43
44

45 INTERROGATORY NO. 4: Identify, giving the name, address,
46 current employer, position and current phone number, all
47

1 persons who "disconnected and drained the feed and return
2
3 piping attached to the tank," as described in paragraph 8 of
4
5 your answer.
6

7 **ANSWER:** The following individuals either performed the
8 work or were involved in the performance or supervision of the
9 work.
10

11 Win Brown	Paul Hines
12 Field Superintendent	Laborer
13 O'Sullivan Omega, Inc.	4681 West Mercer Way
14 28395 S.W. Boberg Rd.	Mercer Island, WA 98040
15 Wilsonville, OR 97070	
16 (503) 682-0275	

17 Fred Crum	David Hollis
18 Field Foreman	Laborer
19 O'Sullivan Omega, Inc.	19421 S.E. 264th
20 3214 - 16th Avenue S.W.	Kent, WA 98042
21 Seattle, WA 98134	
22 (206) 682-2440	

23
24 Dale Lovell
25 O'Sullivan Omega, Inc.
26 3214 - 16th Avenue S.W.
27 Seattle, WA 98134
28 (206) 682-2440
29
30

31 **INTERROGATORY NO. 5:** Identify, giving the name, address,
32
33 current employer, position and current telephone number, all
34
35 persons who observed the work of individuals identified in
36
37 Interrogatory No. 4.
38

39 **ANSWER:**
40

41	
42 John Polk	Inspector Brennamin
43 CH2M Hill	Seattle Fire Department
44 P.O. Box 91500,	(206) 625-4077
45 Bellevue, WA 98009	
46 (206) 453-5000	
47	

INTERROGATORIES AND REQUEST FOR
PRODUCTION OF DOCUMENTS AND
ANSWERS THERETO - 4
[19123-0201/SL940110.258]

PERKINS COIE
1201 Third Avenue, 40th Floor
Seattle, Washir
(206)

LFC003519 y

1 Gary Smith
2 Longview Fibre
3 (206) 762-7170
4
5

6 INTERROGATORY NO. 6: Identify, giving the name, address,
7
8 current employer, position and current telephone number, all
9
10 persons who were responsible for supervising the individuals
11
12 identified in Interrogatory No. 4.
13

14 ANSWER:
15

16
17
18 Bernie Knoll
19 Petroleum Manager
20 (206) 282-3417
21

Mike Muller
General Superintendent
O'Sullivan Omega, Inc.
3214 - 16th Ave. S.W.
Seattle, WA 98134
(206) 682-2440
22
23
24
25

26 INTERROGATORY NO. 7: Identify all documents, including
27
28 but not limited to field notes, which report, record, reflect,
29
30 or relate in any way to defendant's performance of the work
31
32 conducted under Longview's purchase order dated July 21, 1987
33
34 to O'Sullivan.
35

36 ANSWER: O'Sullivan job files, O'Sullivan billing files,
37 O'Sullivan field reports, Seattle Fire Department permit
38 files, CH2M Hill field reports.
39
40

41
42 INTERROGATORY NO. 8: Identify all persons acting on
43
44 defendant's behalf not identified in response to
45
46 Interrogatories No. 4, 5 or 6, who had any responsibility for
47

INTERROGATORIES AND REQUEST FOR
PRODUCTION OF DOCUMENTS AND
ANSWERS THERETO - 5
[19123-0201/SL940110.258]

PERKINS COIE
1201 Third Avenue, 40th Floor
Seattle, Washington
(206) 583-81

LFC003519 Z

1 or participated in any way in or has knowledge of defendant's
2 performance of the work conducted under Longview's purchase
3 order dated July 21, 1987 to O'Sullivan, and for each such
4 individual provide the following information:
5
6

- 7
8
9 a. The individual's name, address, current employer,
10 employer and position in 1987, current position and
11 current telephone number.
12
13
14 b. A description of the individual's role in
15 defendant's performance of the work.
16
17

18
19 **ANSWER:** See answers to Interrogatory Nos. 4-7.
20
21

22
23 **INTERROGATORY NO. 9:** State the basis of your contention
24 that Longview is barred from recovery because of unclean hands
25 and provide the following additional information:
26
27

- 28
29 a. State all facts which support that contention.
30
31 b. Identify, giving name, address, current employer,
32 position and current telephone number, all persons
33 with knowledge of the facts which support that
34 contention.
35
36
37 c. Identify all documents which relate to that
38 contention.
39
40
41

42
43 **ANSWER:** Omega contends that O'Sullivan fully complied
44 with all requirements of the agreement with Longview. The
45 agreement did not require Omega to cap the ends of the pipes
46 remaining in the ground. No applicable laws or standards
47 required Omega to cap the pipes. Longview or other entities,

1 and not Omega or O'Sullivan, caused the alleged damages. On
2 information and belief, Longview or others not properly
3 licensed and trained improperly installed the above-ground
4 heating oil storage tank, improperly connected it to the
5 boiler, improperly designed the tank, improperly failed to
6 obtain legally required permits, improperly failed to have the
7 tank and lines inspected, tested and approved prior to use, or
8 improperly failed to test the tank and lines prior to use. It
9 was these acts, and not the acts of Omega or O'Sullivan, that
10 caused the alleged damages. Persons with knowledge of the
11 facts that support these contentions are identified in
12 Interrogatory Nos. 4-8.
13
14
15

16 INTERROGATORY NO. 10: State the basis of your contention
17 that the acts and omissions of plaintiff and its employees and
18 agents are the direct and proximate cause of any harms alleged
19 in the Complaint, and provide the following additional
20 information.
21
22
23
24

- 25 a. State all facts which support that contention.
26
27 b. Identify, giving name, address, current employer,
28 position and current telephone number, all persons
29 with knowledge of the facts which support that
30 contention.
31
32 c. Identify all documents which relate to that
33 contention.
34
35
36
37
38
39

40 ANSWER: See Answer to Interrogatory No. 9.
41
42
43

44 INTERROGATORY NO. 11: State the basis of your contention
45 that Longview is estopped by its conduct and negligence from
46
47

INTERROGATORIES AND REQUEST FOR
PRODUCTION OF DOCUMENTS AND
ANSWERS THERETO - 7

[19123-0201/SL940110.258]

PERKINS COIE
1201 Third Avenue, 40th Floor
Seattle, Wash
(206)

LFC003519 ab

1 seeking relief against Omega and provide the following
2
3 additional information:

- 4
5 a. State all facts which support that contention.
6
7 b. Identify, giving name, address, current employer,
8
9 position and current telephone number, all persons
10
11 with knowledge of the facts which support that
12
13 contention.
14
15 c. Identify all documents which relate to that
16
17 contention.

18
19 **ANSWER:** See Answer to Interrogatory No. 9.
20
21

22
23 **INTERROGATORY NO. 12:** State the basis of your contention
24
25 that any damages alleged by Longview were caused solely by the
26
27 acts or omissions of parties other than the employees or agent
28
29 of Omega and provide the following additional information:

- 30
31 a. State all facts which support that contention.
32
33 b. Identify, giving name, address, current employer,
34
35 position and current telephone number, all persons
36
37 with knowledge of the facts which support that
38
39 contention.
40
41 c. Identify all documents which relate to that
42
43 contention.

44
45 **ANSWER:** See Answer to Interrogatory No. 9.
46
47

1 INTERROGATORY NO. 13: State the basis of your contention
2
3 that Longview has failed to join indispensable parties without
4
5 whom complete relief cannot be accorded among those already
6
7 parties and provide the following additional information:

- 8
9 a. State all facts which support that contention.
10
11 b. Identify, giving name, address, current employer,
12
13 position and current telephone number, all persons
14
15 with knowledge of the facts which support that
16
17 contention.
18
19 c. Identify all documents which relate to that
20
21 contention.
22

23 ANSWER: See Answer to Interrogatory No. 9. Based on
24 currently available information, it appears that Longview or
25 the entities that undertook or failed to undertake the
26 activities described in Interrogatory No. 9 caused or
27 contributed to the damages.
28
29
30

31 INTERROGATORY NO. 14: State the basis of your contention
32
33 that any damages alleged in Longview's Complaint were caused
34
35 by its own negligence and provide the following additional
36
37 information:

- 38
39 a. State all facts which support that contention.
40
41 b. Identify, giving name, address, current employer,
42
43 position and current telephone number, all persons
44
45 with knowledge of the facts which support that
46
47 contention.

1 c. Identify all documents which relate to that
2
3 contention.

4
5 ANSWER: See Answer to Interrogatory No. 9.
6
7

8
9 INTERROGATORY NO. 15: State the basis of your contention
10
11 that Longview has failed to mitigate its damages and provide
12
13 the following additional information:

- 14
15 a. State all facts which support that contention.
16
17 b. Identify, giving name, address, current employer,
18
19 position and current telephone number, all persons
20
21 with knowledge of the facts which support that
22
23 contention.
24
25 c. Identify all documents which relate to that
26
27 contention.

28
29 ANSWER: Longview failed to mitigate its damages because
30
31 it should have detected, prior to the use of the new tank
32
33 system, that the pipes may not have been properly connected to
34
35 the fuel system. In addition, Longview failed to properly
36
37 design, permit, install, test and inspect the heating oil fuel
38
39 system. Persons with knowledge of the facts which support
40
41 this contention are identified in the Answer to Interrogatory
42
43 Nos. 4-8.

44
45 INTERROGATORY NO. 16: State the basis of your contention
46
47 that Longview's Complaint should be dismissed because Omega
fully performed the obligations of the contract and provide
the following additional information:

- 1 a. State all facts which support that contention.
2
3 b. Identify, giving name, address, current employer,
4 position and current telephone number, all persons
5 with knowledge of the facts which support that
6 contention.
7
8 c. Identify all documents which relate to that
9 contention.
10
11
12
13

14
15 ANSWER: See Answer to Interrogatory No. 9.
16
17

18
19 INTERROGATORY NO. 17: State the basis of your contention
20 that Omega exercised the proper duty of care consistent with
21 all applicable practices, laws and regulations at the time and
22 provide the following additional information:
23
24
25

- 26 a. State all facts which support that contention.
27
28 b. Identify, giving name, address, current employer,
29 position and current telephone number, all persons
30 with knowledge of the facts which support that
31 contention.
32
33 c. Identify all documents which relate to that
34 contention.
35
36
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41 ANSWER: See Answer to Interrogatory No. 9.
42
43
44

45 INTERROGATORY NO. 18: State the basis of your contention
46 that to the extent that Omega has any liability its share of
47

1 liability must be reduced by the share attributable to
2
3 Longview and entities other than Omega and provide the
4
5 following additional information:

- 6
7 a. State all facts which support that contention.
8
9 b. Identify, giving name, address, current employer,
10 position and current telephone number, all persons
11 with knowledge of the facts which support that
12 contention.
13
14 c. Identify all documents which relate to that
15 contention.
16
17
18
19
20

21 **ANSWER:** See Answer to Interrogatory No. 13.
22
23
24

25 **REQUESTS FOR PRODUCTION**

26
27 **REQUEST FOR PRODUCTION NO. 1:** Produce all documents
28 identified in Interrogatories No. 1-18 above.
29
30

31 **RESPONSE:** Subject to and without waiver of its
32 objections, responsive documents will be produced.
33
34
35
36
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47

INTERROGATORIES AND REQUEST FOR
PRODUCTION OF DOCUMENTS AND
ANSWERS THERETO - 12

[19123-0201/SL940110.258]

PERKINS COIE
1201 Third Avenue, 40th Floor
Seattle, Washing
(206) 51

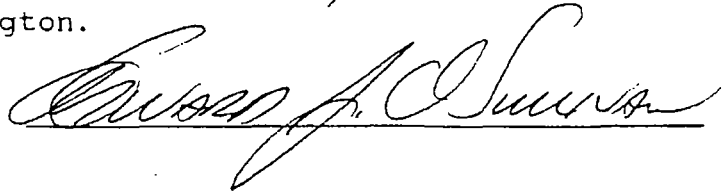
LFC003519 ag

VERIFICATION

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

I, Edward J. O'Sullivan declare under penalty of perjury
under the laws of the State of Washington that the foregoing
Answers are true and correct to the best of my knowledge.

EXECUTED on the 31st day of January, 1994, at
SEATTLE Washington.



CERTIFICATION

The undersigned attorney for defendant has read the
foregoing Plaintiff's First Interrogatories and First Request
for Production of Documents to Defendant Omega Environmental,
Inc. and the responses thereto, and they are in compliance
with CR 26(g).

DATED this 31st day of January, 1994.

PERKINS COIE

By Mark W. Schneider
Mark W. Schneider, WSBA #14105
Attorneys for Defendant
Omega Environmental, Inc.

SUPERIOR COURT OF WASHINGTON
FOR KING COUNTY

LONGVIEW FIBRE COMPANY,

Plaintiff,

v.

OMEGA ENVIRONMENTAL, INC., d/b/a
O'SULLIVAN CONSTRUCTION, INC., a
Delaware corporation,

Defendants.

NO. 93-2-28222-2

LONGVIEW FIBRE COMPANY'S
FIRST INTERROGATORIES AND
FIRST REQUEST FOR
PRODUCTION OF DOCUMENTS
FROM OMEGA ENVIRONMENTAL,
INC.

TO: Defendant Omega Environmental, Inc.; and

TO: Mark W. Schneider, Perkins Coie, Attorneys for
Defendant Omega Environmental, Inc.

Pursuant to CR 33 and CR 34, please answer the following
interrogatories in full and produce the following documents within
thirty days of service of this request upon you.

Interrogatory No. 1.

Did Omega Environmental, Inc. ("Omega") acquire the stock,
assets or business of O'Sullivan Construction, Inc. ("O'Sullivan")?

If so, provide the following information:

a. The date of the transaction.

INTERROGATORIES AND REQUEST FOR
PRODUCTION OF DOCUMENTS - 1

COPY

BOGLE & GATES

Two Union Square
601 Union Street
Seattle, WA 98101
(206) 482-5151

LFC003519 ai

- 1 b. Describe the terms of the transaction.
- 2 c. Describe who now owns the assets of O'Sullivan.
- 3 d. Describe what happened to the corporate existence of
- 4 O'Sullivan.
- 5 e. Identify all documents which are in any way related to
- 6 Omega's acquisition of O'Sullivan.

7 ANSWER:

8

9

10

11

12

13

14 Interrogatory No. 2.

15 Do you contend that Omega is not responsible for

16 contractual obligations or negligence of O'Sullivan resulting from

17 actions of O'Sullivan in 1987? If so, state the following:

- 18 a. The basis of that contention.
- 19 b. Identify, giving names, addresses, current employer,
- 20 position and current telephone numbers, all persons
- 21 with knowledge concerning the basis for that
- 22 contention.
- 23 c. Identify all documents related to that contention.
- 24 d. Identify the person or persons whom you contend are
- 25 responsible for contractual obligations or negligence

1 of O'Sullivan resulting from actions of O'Sullivan in
2 1987.

3 ANSWER:

4
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9
10 Interrogatory No. 3.

11 Identify all "EPA Codes and Standards" which are
12 encompassed within that term as it is used in the June 9, 1987
13 proposal submitted by defendant to Longview Fibre Company
14 ("Longview"), and identify all documents related to those codes and
15 standards.

16 ANSWER:
17
18
19
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21
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Interrogatory No. 4.

Identify, giving the name, address, current employer, position and current phone number, all persons who "disconnected and drained the 'feed' and 'return' piping attached to the tank," as described in paragraph 8 of your answer.

ANSWER:

Interrogatory No. 5.

Identify, giving the name, address, current employer, position and current telephone number, all persons who observed the work of individuals identified in Interrogatory No. 4.

ANSWER:

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Interrogatory No. 6.

Identify, giving the name, address, current employer, position and current telephone number, all persons who were responsible for supervising the individuals identified in Interrogatory No. 4.

ANSWER:

Interrogatory No. 7.

Identify all documents, including but not limited to field notes, which report, record, reflect, or relate in any way to defendant's performance of the work conducted under Longview's purchase order dated July 21, 1987 to O'Sullivan.

ANSWER:

Interrogatory No. 8.

Identify all persons acting on defendant's behalf not identified in response to Interrogatories No. 4, 5 or 6, who had any

1 responsibility for or participated in any way in or has knowledge of
2 defendant's performance of the work conducted under Longview's
3 purchase order dated July 21, 1987 to O'Sullivan, and for each such
4 individual provide the following information:

- 5 a. The individual's name, address, current employer,
6 employer and position in 1987, current position and
7 current telephone number.
8 b. A description of the individual's role in defendant's
9 performance of the work.

10 ANSWER:

11
12
13
14
15
16 Interrogatory No. 9.

17 State the basis of your contention that Longview is barred
18 from recovery because of unclean hands and provide the following
19 additional information:

- 20 a. State all facts which support that contention.
21 b. Identify, giving name, address, current employer,
22 position and current telephone number, all persons
23 with knowledge of the facts which support that
24 contention.
25

1 c. Identify all documents which relate to that
2 contention.

3 ANSWER:

4
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10
11 Interrogatory No. 10.

12 State the basis of your contention that the acts and
13 omissions of plaintiff and its employees and agents are the direct
14 and proximate cause of any harms alleged in the Complaint, and
15 provide the following additional information.

16 a. State all facts which support that contention.

17 b. Identify, giving name, address, current employer,
18 position and current telephone number, all persons
19 with knowledge of the facts which support that
20 contention.

21 c. Identify all documents which relate to that
22 contention.

23 ANSWER:

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Interrogatory No. 11.

State the basis of your contention that Longview is estopped by its conduct and negligence from seeking relief against Omega and provide the following additional information:

- a. State all facts which support that contention.
- b. Identify, giving name, address, current employer, position and current telephone number, all persons with knowledge of the facts which support that contention.
- c. Identify all documents which relate to that contention.

ANSWER:

1 Interrogatory No. 12.

2 State the basis of your contention that any damages alleged
3 by Longview were caused solely by the acts or omissions of parties
4 other than the employees or agent of Omega and provide the following
5 additional information:

6 a. State all facts which support that contention.

7 b. Identify, giving name, address, current employer,
8 position and current telephone number, all persons
9 with knowledge of the facts which support that
10 contention.

11 c. Identify all documents which relate to that
12 contention.

13 ANSWER:

1 Interrogatory No. 13.

2 State the basis of your contention that Longview has failed
3 to join indispensable parties without whom complete relief cannot be
4 accorded among those already parties and provide the following
5 additional information:

6 a. State all facts which support that contention.

7 b. Identify, giving name, address, current employer,
8 position and current telephone number, all persons
9 with knowledge of the facts which support that
10 contention.

11 c. Identify all documents which relate to that
12 contention.

13 ANSWER:

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19 Interrogatory No. 14.

20 State the basis of your contention that any damages alleged
21 in Longview's Complaint were caused by its own negligence and provide
22 the following additional information:

23 a. State all facts which support that contention.

24 b. Identify, giving name, address, current employer,
25 position and current telephone number, all persons

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with knowledge of the facts which support that
contention.

c. Identify all documents which relate to that
contention.

ANSWER:

Interrogatory No. 15.

State the basis of your contention that Longview has failed
to mitigate its damages and provide the following additional
information:

- a. State all facts which support that contention.
- b. Identify, giving name, address, current employer,
position and current telephone number, all persons
with knowledge of the facts which support that
contention.
- c. Identify all documents which relate to that
contention.

ANSWER:

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Interrogatory No. 16.

State the basis of your contention that Longview's Complaint should be dismissed because Omega fully performed the obligations of the contract and provide the following additional information:

- a. State all facts which support that contention.
- b. Identify, giving name, address, current employer, position and current telephone number, all persons with knowledge of the facts which support that contention.
- c. Identify all documents which relate to that contention.

ANSWER:

1 Interrogatory No. 17.

2 State the basis of your contention that Omega exercised the
3 proper duty of care consistent with all applicable practices, laws
4 and regulations at the time and provide the following additional
5 information:

- 6 a. State all facts which support that contention.
7 b. Identify, giving name, address, current employer,
8 position and current telephone number, all persons
9 with knowledge of the facts which support that
10 contention.
11 c. Identify all documents which relate to that
12 contention.

13 ANSWER:
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22 Interrogatory No. 18.

23 State the basis of your contention that to the extent that
24 Omega has any liability its share of liability must be reduced by the
25

1 share attributable to Longview and entities other than Omega and
2 provide the following additional information:

- 3 a. State all facts which support that contention.
4 b. Identify, giving name, address, current employer,
5 position and current telephone number, all persons
6 with knowledge of the facts which support that
7 contention.
8 c. Identify all documents which relate to that
9 contention.

10 ANSWER:
11
12
13
14
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16

17 REQUESTS FOR PRODUCTION

18 REQUEST FOR PRODUCTION NO. 1

19 Produce all documents identified in Interrogatories No.
20 1 - 18 above.

21 RESPONSE:
22
23
24
25

1 Dated this 10th day of January, 1994.

2 BOGLE & GATES

3 

4 Elaine L. Spencer, WSBA #6963
5 Attorneys for Plaintiff
6 Longview Fibre Company

7
8 VERIFICATION

9 Omega Environmental, Inc. declares:

10 That it is one of the defendants in the above-entitled
11 lawsuit to whom these interrogatories and requests for production are
12 addressed, and as such is authorized to make this verification; that
13 it has read the foregoing answers to interrogatories and requests for
14 production, knows the contents thereof, and believes the same to be
15 true.

16 I declare under penalty of perjury under the laws of the
17 State of Washington that the foregoing is true and correct.

18 EXECUTED on the _____ day of _____, 1994, at
19 _____, Washington.

20
21 OMEGA ENVIRONMENTAL, INC.

22 By: _____

23 Its _____
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CERTIFICATION

The undersigned attorney for defendant has read the foregoing Plaintiff's First Interrogatories and First Request for Production of Documents to Defendant Omega Environmental, Inc. and the responses thereto, and they are in compliance with CR 26(g).

DATED this _____ day of _____, 1994.

Mark W. Schneider, WSBA #14105
PERKINS COIE
Attorneys for Defendant Omega
Environmental, Inc.

0555/0076

6

BOGLE COATES
COPY - EC'D.

I certify that a true and correct copy of the original of the State of Washington has been made (original / 1 copy) and is submitted.
Dec 22 2 31 PM '93
BOOKED TO DEPT.

Elaine Spence
on the 22 day of Dec, 1993.
Signed: Arianne Wolder

SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR KING COUNTY

LONGVIEW FIBRE COMPANY,

Plaintiff,

v.

OMEGA ENVIRONMENTAL INC., d/b/a
O'SULLIVAN CONSTRUCTION, INC., a
Delaware corporation,

Defendant.

NO. 93-2-28222-2

ANSWER OF DEFENDANT OMEGA
ENVIRONMENTAL, INC.

FILED

Defendant, Omega Environmental, Inc. ("Defendant")
answers the Complaint for Damages as follows:

1. Defendant is without knowledge or information
sufficient to form a belief as to the truth or falsity of
these allegations and therefore denies the same.

2. Defendant admits that Omega Environmental, Inc. is a
Delaware corporation that does business in Washington, but
denies the remaining allegations of this paragraph.

3. Defendant admits the allegations of this paragraph.

1 4. Defendant admits that, in 1987, O'Sullivan
2
3 Construction, Inc. had no corporate relationship with
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5 Defendant. Defendant denies the allegations of this
6
7 paragraph.

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9 5. Defendant admits that it submitted a proposal dated
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11 June 9, 1987, that Longview Fibre Company ("Plaintiff") has
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13 quoted portions of the proposal in this paragraph, and that
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15 the proposal speaks for itself, but denies all remaining
16
17 allegations of this paragraph.

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19 6. Defendant admits that Plaintiff issued a purchase
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21 order dated July 21, 1987, that Plaintiff has quoted a portion
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23 of the purchase order in this paragraph, and that the purchase
24
25 order speaks for itself, but denies all remaining allegations
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27 of this paragraph.

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29 7. Defendant denies the allegations of this paragraph.

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31 8. Defendant admits that it disconnected and drained
32
33 the "feed" and "return" piping attached to the tank, but is
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35 without knowledge or information sufficient to form a belief
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37 as to the truth or falsity of the remaining allegations of
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39 this paragraph and therefore denies the same.

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41 9. Defendant is without knowledge or information
42
43 sufficient to form a belief as to the truth or falsity of the
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45 first sentence of this paragraph, the allegation in the second
46
47 sentence that "CH2M HILL's engineer on-site observed that the

1 pipes were not being capped," and the allegation in the third
2 paragraph that "O'Sullivan did not cap the pipes," and
3 therefore denies the same. Defendant denies the remaining
4 allegations of this paragraph.
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9 10. Defendant is without knowledge or information
10 sufficient to form a belief as to the truth or falsity of
11 these allegations and therefore denies the same.
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15 11. Defendant is without knowledge or information
16 sufficient to form a belief as to the truth or falsity of the
17 allegations in the first sentence of this paragraph and
18 therefore denies the same. Defendant denies the remaining
19 allegations of this paragraph.
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24 12-15. Defendant is without knowledge or information
25 sufficient to form a belief as to the truth or falsity of
26 these allegations and therefore denies the same.
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31 16. Defendant restates its answers to paragraphs 1-15
32 and incorporates them by reference as if fully set forth
33 herein.
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36
37 17-21. Defendant denies the allegations of these
38 paragraphs.
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41 22. Defendant restates its answers to paragraphs 1
42 through 21 and incorporates them by reference as if fully set
43 forth herein.
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1 23-25. Defendant denies the allegations of these
2
3 paragraphs.

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5 AFFIRMATIVE DEFENSES

6 1. The Complaint fails to state a claim upon which
7
8 relief can be granted.

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10 2. The Complaint and each claim therein is barred by
11
12 the applicable statutes of limitations, laches, or waiver.

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14 3. Plaintiff is barred from recovery because it comes
15
16 to this Court with unclean hands.

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18 4. The acts and omissions of Plaintiff and its
19
20 employees and agents are the direct and proximate cause of any
21
22 harms alleged in the Complaint. Plaintiff is estopped by its
23
24 conduct and negligence from seeking relief against Defendant.

25
26 5. Any damages alleged by Plaintiff were caused solely
27
28 by the acts or omissions of parties other than the employees
29
30 or agents of the Defendant. In all actions, Defendant
31
32 exercised due care.

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34 6. Plaintiff has failed to join indispensable parties
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36 without whom complete relief cannot be accorded among those
37
38 already parties.

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40 7. Any damages alleged in Plaintiff's Complaint was
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42 caused by Plaintiff's own negligence.

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44 8. Plaintiff has failed to mitigate its damages.
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1 9. Plaintiff's Complaint should be dismissed because
2 Defendant fully performed the obligations of the contract.
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4 10. Defendant exercised the proper duty of care
5 consistent with all applicable practices, laws and regulations
6 at the time.
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10 11. To the extent that Defendant has any liability, and
11 Defendant denies that it does, its share of liability must be
12 reduced by the share attributable to Plaintiff and entities
13 other than Defendant.
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18 RELIEF REQUESTED
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20 WHEREFORE, Defendant prays for the following relief:
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22 1. Dismissal of all of Plaintiff's claims with
23 prejudice.
24

25 2. An award of costs, disbursements and fees incurred
26 by Defendant.
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30 3. For such other relief as the Court deems just and
31 equitable.
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34 DATED: December 21, 1993.
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36

37 PERKINS COIE
38

39 By Mark W. Schneider
40 Mark W. Schneider, WSBA #14105
41 Attorneys for Defendant Omega
42 Environmental, Inc.
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SUPERIOR COURT OF WASHINGTON
FOR KING COUNTY

LONGVIEW FIBRE COMPANY,)	
)	
Plaintiff,)	NO.
)	
v.)	COMPLAINT FOR DAMAGES
)	
CH2M HILL NORTHWEST, INC., an Oregon)	
corporation, and OMEGA)	
ENVIRONMENTAL, INC., d/b/a)	
O'SULLIVAN CONSTRUCTION, INC., a)	
Delaware corporation,)	
)	
Defendants.)	

1. Longview Fibre Company ("Longview") is a Washington corporation, which has paid all fees due and owing to the state. It owns a manufacturing facility in Seattle, Washington, which was the site of the work which forms the basis of this lawsuit.

2. CH2M Hill Northwest, Inc. ("CH2M Hill") is an Oregon corporation doing business in King County, Washington.

3. Omega Environmental, Inc. d/b/a O'Sullivan Construction, Inc. ("O'Sullivan") is a Delaware corporation, doing business at 1401 West Nickerson, Seattle, Washington.

4. In 1987, Longview contracted with CH2M Hill for CH2M Hill to independently manage the removal of underground oil storage

1 tanks at various manufacturing facilities of Longview around the
2 United States.

3 5. With respect to Longview's Seattle box manufacturing
4 plant, the contract provided that CH2M Hill would perform the
5 following scope of work, among other work:

- 6 1. Prepare a site-specific bid documents
7 (specification), health and safety plan, and
8 field services operation plan, for removal of
9 three underground storage tanks.
- 10 2. Obtain a minimum of three written bids for
11 removal of the tanks. If necessary, arrange site
12 visits with each of the contractors.
- 13 3. Review the bids and make a written recommendation
14 to the plant manager.
- 15 4. Upon receiving the plant manager's selection of a
16 contractor, coordinate the schedule for removal
17 of the tanks with the plant manager, contractor
18 and, if required, notify the appropriate state or
19 local environmental control agency or fire
20 department.
- 21 5. Be onsite during tank removal activities to
22 provide coordination with the plant and the
23 contractor; ensure that the contractor performs
24 the work as described in the bid; visually
25 inspect the exterior of the removed tank for
integrity (cracks, holes), collect and have
analyzed soil and/or water samples and keep the
plant manager or his designee informed as to the
status of the field activity.
6. Prepare a concise report summarizing the tank
removal activities.

(emphasis added).

6. Pursuant to that contract, CH2M Hill solicited bids
for removal of the storage tanks.

1 7. O'Sullivan Construction, Inc. was then an independent
2 corporation. It has since been acquired by and/or merged with Omega
3 Environmental, Inc. which is responsible for its liabilities.

4 8. CH2M Hill recommended to Longview that it accept the
5 bid submitted by O'Sullivan. O'Sullivan's bid proposed

6 "To remove existing 12,000 gallon fuel oil tank,
7 7,500 gallon diesel and 600 gallon heating oil
8 tanks, as per EPA Codes and Standards."

8 (emphasis added).

9 9. Based on CH2M Hill's recommendation, Longview issued a
10 purchase order to O'Sullivan to remove the three underground storage
11 tanks at its Seattle box plant. The purchase order provided in part:

12 Work to be completed as per proposal by
13 O'Sullivan Construction signed 7-21-87 and per
14 all E.P.A. standards, permits and codes.

14 (emphasis added).

15 10. The purchase order further confirmed CH2M Hill's
16 independent contractual obligation to Longview:

17 Consulting Rep. CH2M (John Polk) will be advised
18 of all work schedules & certify to LFCO that all
19 work is done to specifications and E.P.A. codes.

20 11. E.P.A. standards, permits and codes call for
21 disconnecting and draining all piping attached to an underground
22 tank, and then capping the ends of all pipes formerly attached to the
23 tank but remaining in the ground.

24 12. In the course of removing the fuel oil tank on August
25 4 and 5, 1987, O'Sullivan disconnected and drained the "feed" and

1 "return" piping which was attached to tank and the boiler, but did
2 not cap the pipes.

3 13. CH2M Hill's engineer on site actually observed that
4 the pipes were not being capped, as reflected in her field notes, but
5 did not ensure that the pipes were capped.

6 14. Neither O'Sullivan nor CH2M Hill notified Longview
7 that the pipes were not capped.

8 15. The underground pipes, without having been capped,
9 were then covered with asphalt, as provided in O'Sullivan's bid.
10 That made it impossible for Longview to discover that the pipes were
11 not capped.

12 16. Longview replaced the underground tank with an above-
13 ground heating oil storage tank, which was connected to the boiler.

14 17. Oil was used as a backup fuel supply, to be used only
15 when the ordinary heating fuel supply, natural gas, was interrupted
16 for some reason. It was not until January 1991 that Longview first
17 had occasion after the underground tank was removed to use oil as a
18 backup fuel supply when Longview's natural gas supply was interrupted
19 due to unusually cold weather.

20 18. When the oil was turned on to the boiler, oil passed
21 down the uncapped return line and because the line was not capped,
22 leaked into the ground, causing damage to Longview.

23 19. As soon as Longview discovered the leak, it began
24 pumping oil out of the ground. It has since been required to clean
25 up the oil spill, at a total cost to date in excess of \$175,000.

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21. CH2M Hill agreed by contract to "ensure that the contractor [O'Sullivan] performs the work as described in the bid." (emphasis added).

23. O'Sullivan did not perform the work as described in the bid, because it did not cap the lines, in violation of E.P.A. standards, permits and codes.

25. The fact that the lines were not capped was material information about the field activity which it was essential for Longview's plant manager to have. Once the uncapped lines were covered, there was no way for Longview to discover that the lines were uncapped. Thus, Longview was given no notice that it needed to take other precautions to avoid the spill which occurred.

26. CH2M Hill's failure to inform Longview's plant manager that the lines were uncapped was a breach of CH2M Hill's contractual obligation to "keep the plant manager on his designee informed as to the status of the field activity."

1 27. CH2M Hill's breach of its contractual obligations
2 described above caused Longview the damage described above.

3 28. Longview did not know of and could not have discovered
4 CH2M Hill's breach until January 1991 when it first used its backup
5 fuel supply and the damage occurred.

6 29. Longview is entitled to recover from CH2M Hill the
7 full amount of the damage it incurred because of CH2M Hill's breach
8 of its contract with Longview.

9 **SECOND CAUSE OF ACTION -**
10 **BREACH OF CONTRACT BY O'SULLIVAN**

11 30. Longview realleges paragraphs 1-19.

12 31. O'Sullivan agreed by contract to remove the tanks as
13 "per all EPA standards, permits and codes." That included
14 disconnecting and draining all piping attached to the underground
15 tanks and then capping the ends of all pipes formerly attached to the
16 tank but remaining in the ground.

17 32. O'Sullivan breached that contractual duty when it
18 failed to cap the pipes.

19 33. That breach of contract by O'Sullivan caused Longview
20 the damage described above.

21 34. Longview did not know of and could not have discovered
22 O'Sullivan's breach until January 1991 when it first used its backup
23 fuel supply and the damage occurred.

1 35. Longview is entitled to recover from O'Sullivan the
2 full amount of the damages it incurred because of O'Sullivan's breach
3 of its contract with Longview.

4 **THIRD CAUSE OF ACTION -**
5 **NEGLIGENCE BY CH2M HILL**

6 36. Longview realleges paragraphs 1-29.

7 37. In performing its obligations under its contract with
8 Longview, CH2M Hill had a duty to act with that standard of care
9 customary of engineers performing similar activities in this
10 community.

11 38. CH2M Hill's failure to insist that O'Sullivan cap the
12 lines and its failure to report to Longview that the lines were not
13 capped was a breach of that duty.

14 39. CH2M Hill's breach of its duty to Longview caused
15 Longview's damage described above.

16 **FOURTH CAUSE OF ACTION -**
17 **NEGLIGENCE BY O'SULLIVAN**

18 40. Longview realleges paragraphs 1-19 and 30-35.

19 41. In performing its obligations under its contract with
20 Longview, O'Sullivan had a duty to perform its work in a sound and
21 workmanlike manner. That included a duty to cap the lines.

22 42. O'Sullivan's failure to cap the lines was a breach of
23 that duty.

24 43. O'Sullivan's breach of its duty to Longview caused
25 Longview's damage described above.

1 PRAYER

2 Wherefore, Longview asks that the court enter judgment in
3 its favor as follows:

4 1. Against CH2M Hill and O'Sullivan, jointly and
5 severally, for the amount to be proven at trial of Longview's damage
6 which resulted from the breach of contract and/or negligence of CH2M
7 Hill and O'Sullivan.

8 2. Awarding Longview its statutory costs and attorneys
9 fees incurred herein.

10 3. Granting such other and further relief as the court
11 may deem proper.

12 Dated: October _____, 1993

13 BOGLE & GATES

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15 Elaine L. Spencer, WSBA #6963
16 Attorneys for Longview Fibre Company
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